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COUNTY OF SANTA BARBARA and  
SANTA BARBARA COUNTY SHERIFF'S DEPT.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JUNAN CHEN, KELLY YAO  
WANG, CHANGSHUANG WANG,  
JINSHUANG LIU, LICHU CHEN,  
and WENQUEI HONG,

Plaintiffs,

v.

COUNTY OF SANTA BARBARA;  
SANTA BARBARA COUNTY  
SHERIFF'S DEPARTMENT; CAPRI  
APARTMENTS AT ISLA VISTA;  
ASSET CAMPUS HOUSING; and  
DOES 1 through 200, Inclusive

Defendants.

Case No: CV 15-1509-JFW (JEMx)

**DEFENDANTS COUNTY OF  
SANTA BARBARA AND SANTA  
BARBARA COUNTY SHERIFF'S  
DEPARTMENT'S ANSWER TO  
COMPLAINT FOR DAMAGES**

Judge: Hon. John F. Walter  
Courtroom: 16 – Spring Street

Defendants COUNTY OF SANTA BARBARA and SANTA BARBARA  
COUNTY SHERIFF'S DEPARTMENT (hereinafter "County Defendants"),  
answer plaintiff's Complaint for Damages as follows:

JURISDICTION AND VENUE

1. Answering Paragraph 1, County Defendants admit all allegations.
2. Answering Paragraph 2, County Defendants admit that venue is proper and deny that any actions by County Defendants were unlawful.

1           3. Answering Paragraph 3, County Defendants do not have sufficient  
2 information or knowledge to form a belief as to the truth of these allegations and  
3 on that ground, deny each and every allegation therein.

4           4. Answering Paragraph 4, County Defendants do not have sufficient  
5 information or knowledge to form a belief as to the truth of these allegations and  
6 on that ground, deny each and every allegation therein.

7           5. Answering Paragraph 5, County Defendants do not have sufficient  
8 information or knowledge to form a belief as to the truth of these allegations and  
9 on that ground, deny each and every allegation therein.

10          6. Answering Paragraph 6, County Defendants do not have sufficient  
11 information or knowledge to form a belief as to the truth of these allegations and  
12 on that ground, deny each and every allegation therein.

13          7. Answering Paragraph 7, County Defendants do not have sufficient  
14 information or knowledge to form a belief as to the truth of these allegations and  
15 on that ground, deny each and every allegation therein.

16          8. Answering Paragraph 8, County Defendants do not have sufficient  
17 information or knowledge to form a belief as to the truth of these allegations and  
18 on that ground, deny each and every allegation therein.

19          9. Answering Paragraph 9, County Defendants admit the first three  
20 sentences regarding the nature of the County, County employees and the  
21 Sheriff's Department and admit the final sentence regarding government  
22 liability in California. County Defendants deny all remaining allegations.

23          10. Answering Paragraph 10, County Defendants admit all allegations.

24          11. Answering Paragraph 11, County Defendants admit that involved  
25 Deputies acted under color of authority and within the course and scope of their  
26 duties. As to all remaining allegations, County Defendants do not have sufficient  
27 information or knowledge to form a belief as to the truth of these allegations and  
28 on that ground, denies each and every remaining allegation.

1           12. Answering Paragraph 12, County Defendants do not have sufficient  
2 information or knowledge to form a belief as to the truth of these allegations and  
3 on that ground, deny each and every allegation therein.

4           13. Answering Paragraph 13, County Defendants do not have sufficient  
5 information or knowledge to form a belief as to the truth of these allegations and  
6 on that ground, deny each and every allegation therein.

7           14. Answering Paragraph 14, County Defendants do not have sufficient  
8 information or knowledge to form a belief as to the truth of these allegations and  
9 on that ground, deny each and every allegation therein.

10           15. Answering Paragraph 15, County Defendants admit that Santa  
11 Barbara County Sheriff's Department Deputies were agents and employees of  
12 Santa Barbara County and were acting within the course and scope of their  
13 employment. County Defendants deny all remaining allegations.

14           16. Answering Paragraph 16, County Defendants deny all allegations  
15 therein.

16           17. Answering Paragraph 17, this paragraph contains no factual  
17 allegations to which a response is required.

18           18. Answering Paragraph 18, County Defendants admit all allegations.

19           19. Answering Paragraph 19, County Defendants do not have sufficient  
20 information or knowledge to form a belief as to the truth of these allegations and  
21 on that ground, deny each and every allegation therein.

22           20. Answering Paragraph 20, County Defendants do not have sufficient  
23 information or knowledge to form a belief as to the truth of these allegations and  
24 on that ground, deny each and every allegation therein.

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ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

21. Answering Paragraph 21, County Defendants do not have sufficient information or knowledge to form a belief as to the truth of these allegations and on that ground, deny each and every allegation therein.

22. Answering Paragraph 22, County Defendants do not have sufficient information or knowledge to form a belief as to the truth of these allegations and on that ground, deny each and every allegation therein.

23. Answering Paragraph 23, County Defendants do not have sufficient information or knowledge to form a belief as to the truth of these allegations and on that ground, deny each and every allegation therein.

24. Answering Paragraph 24, County Defendants do not have sufficient information or knowledge to form a belief as to the truth of these allegations and on that ground, deny each and every allegation therein.

25. Answering Paragraph 25, County Defendants do not have sufficient information or knowledge to form a belief as to the truth of these allegations and on that ground, deny each and every allegation therein.

26. Answering Paragraph 26, County Defendants do not have sufficient information or knowledge to form a belief as to the truth of these allegations and on that ground, deny each and every allegation therein.

27. Answering Paragraph 27, County Defendants admit that these are accurate quotes from Rodger's "manifesto" with the exception that he called the roommates "timid, geeky types" rather than "timid geeks." As to the remaining allegations, County Defendants do not have sufficient information or knowledge to form a belief as to the truth of these allegations and on that ground, deny each and every remaining allegation.

28. Answering Paragraph 28, County Defendants do not have sufficient information or knowledge to form a belief as to the truth of these allegations and on that ground, deny each and every allegation therein.

1           29. Answering Paragraph 29, County Defendants admit that this is an  
2 accurate quote from Rodger's "manifesto." As to the remaining allegations,  
3 County Defendants do not have sufficient information or knowledge to form a  
4 belief as to the truth of these allegations and on that ground, deny each and  
5 every remaining allegation.

6           30. Answering Paragraph 30, County defendants admit all allegations.

7           31. Answering Paragraph 31, County Defendants do not have sufficient  
8 information or knowledge to form a belief as to the truth of these allegations and  
9 on that ground, deny each and every allegation therein.

10          32. Answering Paragraph 32, County Defendants admit that Elliot  
11 Rodger purchased a 9mm Sig Sauer P226R pistol on March 12, 2013 and admit  
12 that he purchased twelve Sig Sauer P226 9mm magazines. County Defendants  
13 do not have sufficient information or knowledge to admit or deny where he  
14 purchased the ammunition. These Defendants deny all remaining allegations.

15          33. Answering Paragraph 33, these Defendants admit all allegations  
16 excluding the final sentence. As to the allegation that Rodger returned home,  
17 bruised disheveled, and crying and told a neighbor at the Capri Apartments that  
18 he was going to "kill all those motherf\_\_kers and kill myself," County  
19 Defendants do not have sufficient information or knowledge to admit or deny  
20 the allegations, and on that ground, deny these allegations.

21          34. Answering Paragraph 34, County Defendants admit that Rodger told  
22 the Sheriff's Department Deputies that he had been pushed off the ledge by  
23 people at the party and made up a story that he was not the aggressor. County  
24 Defendants further admit that there were no charges filed as a result of the  
25 incident. As to the remaining allegations, County Defendants do not have  
26 sufficient information or knowledge to form a belief as to the truth of these  
27 allegations and on that ground, deny each and every remaining allegation.

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1           35. Answering Paragraph 35, County Defendants do not have sufficient  
2 information or knowledge to form a belief as to the truth of these allegations and  
3 on that ground, deny each and every allegation therein.

4           36. Answering Paragraph 36, these Defendants admit that on January 15,  
5 Rodger placed decedent Hong under citizen's arrest for taking his candles and  
6 called the Sheriff's Department. County Defendants further admit that Deputies  
7 interviewed the parties, and after unsuccessfully attempting to assist them in  
8 reaching an agreement, arrested Hong after locating Rodger's candles in Hong's  
9 bed. County Defendants admit that charges of petty theft were later dismissed  
10 due to insufficient evidence and that the Deputies did not conduct a weapons or  
11 background check on Rodger or conduct an on-line investigation. As to the  
12 remaining allegations, County Defendants do not have sufficient information or  
13 knowledge to form a belief as to the truth of these allegations and on that  
14 ground, deny each and every remaining allegation.

15           37. Answering Paragraph 37, County Defendants admit that Rodger  
16 eventually planned to carry out the "day of retribution" on May 23, 2014. As to  
17 the remaining allegations, County Defendants do not have sufficient information  
18 or knowledge to form a belief as to the truth of these allegations and on that  
19 ground, deny each and every remaining allegation.

20           38. Answering Paragraph 38, County Defendants admit that Rodger  
21 uploaded multiple videos to YouTube in April 2014 in which he expressed  
22 unhappiness and dissatisfaction. As to the remaining allegations, County  
23 Defendants do not have sufficient information or knowledge to form a belief as  
24 to the truth of these allegations and on that ground, deny each and every  
25 remaining allegation.

26           39. Answering Paragraph 39, County Defendants admit that on April 30,  
27 2014, Sheriff's Deputies went to Rodger's apartment on a "check the welfare"  
28 call after a staff member managing the crisis line for County Mental Health

1 requested they do so as a result of call regarding videos that Rodger had posted  
 2 on YouTube. County Defendants admit that the Deputies spoke to Rodger  
 3 outside his apartment and did not request to enter the apartment, and that nobody  
 4 from the Sheriff's Department watched the videos in question or other online  
 5 activity. County Defendants admit that nobody from the Sheriff's Department  
 6 performed a gun check and that Rodger told them it was a "misunderstanding"  
 7 and admit that the quote from Rodger's "manifesto" is accurate.

8 County Defendants deny that the mental health worker viewed the videos  
 9 or believed that Rodger was a danger to himself or others and deny that this  
 10 welfare check caused Rodger to adapt and expand his plans of violence, creating  
 11 greater danger than existed previously and deny that the videos revealed that  
 12 Rodger was a specific and preventable threat to anyone, and deny that the  
 13 Sheriff's Department was possessed of actual or constructive knowledge of this  
 14 threat. County Defendants deny that through their conduct, they affirmed that  
 15 Rodger was not dangerous, increasing the existing danger to Hong and Wang  
 16 and their guests and creating and catalyzing a danger to Hong and Wang which  
 17 did not exist before. As to the remaining allegations, County Defendants do not  
 18 have sufficient information or knowledge to form a belief as to the truth of these  
 19 allegations and on that ground, deny each and every remaining allegation.

20 40. Answering Paragraph 40, County Defendants admit that on May 23,  
 21 2014, Rodger emailed his "manifesto" to his parents and therapist after killing  
 22 Hong, Wang and Chen with knives. Defendants admit that Rodger went into  
 23 Isla Vista and carried out a shooting rampage that killed another three people  
 24 and wounded fourteen.

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FIRST CAUSE OF ACTION

VIOLATION OF DUE PROCESS UNDER THE FOURTEENTH AMENDMENT  
AGAINST DEFENDANTS COUNTY; SBCSD; AND DOES 1-50, INCLUSIVE

41. Insofar as a response is required to Paragraph 41, County Defendants incorporate their responses to Paragraphs 1-40 as set forth in this Answer.

42. Answering Paragraph 42, County Defendants deny all allegations.

43. Answering Paragraph 43, County Defendants admit that Deputies acted under color of state law and pursuant to department policy. County Defendants contend that the phrase “official written and unwritten policy and custom” is overly vague and cannot be answered and therefore County Defendants deny that Deputies acted pursuant to these. County Defendants deny all remaining allegations.

44. Answering Paragraph 44, County Defendants deny all allegations.

45. Answering Paragraph 45, County Defendants deny all allegations.

46. Answering Paragraph 46, County Defendants deny all allegations.

47. Answering Paragraph 47, County Defendants deny all allegations.

48. Answering Paragraph 48, County Defendants deny all allegations.

SECOND CAUSE OF ACTION

NEGLIGENCE

AGAINST CAPRI, ASSET AND DOES 51-100, INCLUSIVE

49. Plaintiffs’ Second Cause of Action at paragraphs 49-55 is not brought against the County Defendants and makes no allegations against the County Defendants and therefore these Defendants make no Answer to this Cause of Action.

PRAYER FOR RELIEF

On page 15 of the Complaint, Plaintiff makes a Prayer for Relief which sets forth his alleged damages and does not assert material allegations requiring an Answer.



## AFFIRMATIVE DEFENSES

50. For a First Affirmative Defense, the Complaint for Damages fails to state facts sufficient to constitute a cause of action against the County Defendants.

51. For a Second Affirmative Defense, the Complaint for Damages fails to state a cause of action against this answering Defendant, for, pursuant to [\*Monell v. Department of Social Services of the City of New York\* \(1978\) 436 U.S. 658](#), there can be no recovery for federal civil rights violation where there is no constitutional deprivation occurring pursuant to governmental custom, policy or practice.

52. For a Third Affirmative Defense, Plaintiffs' allegations do not support the existence of a custom or policy, or failure to train, of the kind of duration and consistency that is necessary under *Monell* and [\*City of Canton v. Harris\*, \(1989\) 489 U.S. 378, 392](#).

53. For a Fourth Affirmative Defense, Plaintiff's damages were caused by a third party, and not by these County Defendants.

54. For a Fifth Affirmative Defense, County Defendants are not liable in Due Process for harm caused by private parties. [\*Kennedy v. City of Ridgefield\* 439 F.3d 1055, 1061 \(9th Cir. 2006\)](#).

55. For a Sixth Affirmative Defense, the state-created danger rule does not apply because County Defendants did not expose the Plaintiffs or the Plaintiffs' decedents to a greater danger than they otherwise would have faced.

56. For a Seventh Affirmative Defense, the state-created danger rule does not apply because the danger posed by Elliot Rodger was not known or obvious to County Defendants.

57. For an Eighth Affirmative Defense, the state-created danger rule does not apply and County Defendants are not liable for a due process violation because they did not act with deliberate indifference towards the Plaintiffs or their

1 decedents nor did they act with deliberate indifference to the danger posed by  
2 Elliot Rodger.

3 58. For a Ninth Affirmative Defense, Plaintiffs do not have a due  
4 process right to the benefits they would have received if County Defendants had  
5 arrested or otherwise restrained or restricted the activities of Elliot Rodger prior  
6 to May 23, 2014.

7 59. County Defendants are entitled to all other applicable immunities  
8 provided by federal law not specifically set forth herein and specifically reserve  
9 the right to add or to amend this Answer prior to the date of the Pre-Trial  
10 Conference in order to conform the pleadings to established evidence.

11  
12 WHEREFORE, these Defendants pray as follows:

13 1. That Plaintiffs takes nothing by reason of their Complaint as to these  
14 Defendants, that judgment be rendered in favor of the County Defendants;

15 2. That County Defendants be awarded its costs of suit incurred in  
16 defense of this action; and attorney's fees pursuant to [42 U.S.C. Section 1983](#);  
17 and

18 3. For such other relief as the Court deems proper.

19 Dated: May 13, 2014

MICHAEL C. GHIZZONI  
COUNTY COUNSEL

21  
22 By: /s/  
23 Lisa A. Rothstein  
24 Sr. Deputy County Counsel  
25 Attorneys for Defendant  
26 COUNTY OF SANTA BARBARA

**DECLARATION OF SERVICE BY MAIL**

I am a citizen of the United States and a resident of Santa Barbara County.  
I am over the age of eighteen years and not a party to the within entitled action;  
my business address is 105 East Anapamu Street, Suite 201, Santa Barbara, CA.

On May 13, 2015, I served a true copy of the within DEFENDANTS  
COUNTY OF SANTA BARBARA AND SANTA BARBARA COUNTY  
SHERIFF'S DEPARTMENT'S ANSWER TO COMPLAINT FOR DAMAGES  
on the interested parties in this action by:

☒ electronic transmission via CM/ECF to the persons indicated below:

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☒ (Federal) I declare that I am employed in the office of a member of  
the Bar of this Court at whose direction the service was made.

Executed on May 13, 2015, at Santa Barbara, California.

/s/

D'Ann Marvin